

Message Text

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ORIGIN EA-09

INFO OCT-01 ISO-00 PM-04 CIAE-00 INR-07 NSAE-00 AID-05

TRSE-00 L-03 OMB-01 INRE-00 SSO-00 SP-02 SS-15 NSCE-00

NSC-05 MC-02 IGA-01 /055 R

DRAFTED BY EA/TB - FJTATU:DOD/DSAA:CJAMESON:MFG

APPROVED BY EA/TB - GBROBERTS

----- 124273

O 251939Z SEP 75

FM SECSTATE WASHDC

TO AMEMBASSY BANGKOK IMMEDIATE

INFO COMUSMACTHAI IMMEDIATE

CINCPAC

SECDEF

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E.O. 11652: N/A

TAGS: MASS, TH

SUBJECT: FMS CREDITS FOR THAILAND

REFERENCES: A. BANGKOK 20115 (DTG 240958Z SEPT);

; B. STATE 226798 (DTG 232208Z SEPT)

1. RTG EMBASSY DCM, WHO WAS THOROUGHLY BRIEFED ON FMS PROCEDURES MAY-JUNE PRIOR TO SIGNING OF LOAN AGREEMENT, CONFIRMS THAT EMBASSY HAS NOT YET RECEIVED REQUIRED "LEGAL OPINION." HE WILL BE CABLING MFA FOR CLARIFICATION.

2. FOLLOWING IS "LEGAL OPINION" FORMAT GENERALLY USED FOR NOTIFYING THE FFB (WE ASSUME AUTHORIZING AUTHORITY WILL BE FROM MINISTRY OF DEFENSE; FOR CONSISTENCY, BLANKS HAVE NOT YET BEEN FILLED IN):

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OPINION OF THE LEGAL ADVISER OF THE MINISTRY OF
GOVERNMENT OF

THIS LEGAL OPINION IS RENDERED IN SATISFACTION OF THE
REQUIREMENTS OF THE LOAN AGREEMENT BETWEEN THE GOVERNMENT
OF (HEREINAFTER REFERRED TO AS THE
"GOVERNMENT"), AND THE UNITED STATES FEDERAL FINANCING

BANK (HEREINAFTER REFERRED TO AS THE "FFB"), DATED

GOVERNMENT DATED , GUARANTEED BY THE
DEFENSE SECURITY ASSISTANCE AGENCY OF THE UNITED STATES
DEPARTMENT OF DEFENSE (HEREINAFTER REFERRED TO AS
"DSAA"), DATED , AND PROVIDING FOR
ADVANCES IN THE AGGREGATE AMOUNT OF
(\$).

I, THE UNDERSIGNED ((TYPE NAME) ,
LEGAL ADVISER TO THE MINISTRY OF , OF THE
GOVERNMENT OF , DO HEREBY
CERTIFY AS FOLLOWS:

1. THE GOVERNMENT HAS FULL POWER, AUTHORITY AND LEGAL
RIGHT TO INCUR THE INDEBTEDNESS CONTEMPLATED IN THE
ABOVE DESCRIBED LOAN AGREEMENT ON THE TERMS AND CONDI-
TIONS CONTAINED THEREIN, AND TO EXECUTE, DELIVER AND
PERFORM THE SAID LOAN AGREEMENT AND THE PROMISSORY NOTE
THEREUNDER;

2. THE EXECUTION, DELIVERY AND PERFORMANCE OF THE SAID
LOAN AGREEMENT AND PROMISSORY NOTE WILL NOT VIOLATE ANY
PROVISIONS OF, AND HAVE BEEN DULY AND VALIDLY AUTHORIZED
UNDER THE LAWS OF THE GOVERNMENT, AND ALL ACTIONS
NECESSARY TO AUTHORIZE THE BORROWINGS THEREUNDER AND THE
EXECUTION, DELIVERY AND PERFORMANCE OF THE SAID LOAN
AGREEMENT AND THE PROMISSORY NOTE HAVE BEEN DULY TAKEN.

3. THE SAID LOAN AGREEMENT AND THE PROMISSORY NOTE HAVE
BEEN DULY EXECUTED AND DELIVERED BY PERSONS THEREUNTO
DULY AUTHORIZED AND CONSTITUTE THE VALID LEGALLY BINDING,
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DIRECT AND UNCONDITIONAL GENERAL OBLIGATIONS OF THE
GOVERNMENT ENFORCEABLE IN ACCORDANCE WITH THEIR RESPEC-
TIVE TERMS.

4. THE FOLLOWING OFFICIAL(S) OF THE GOVERNMENT,

IS (ARE) DULY AUTHORIZED TO EXECUTE AND DELIVER THE SAID
LOAN AGREEMENT AND THE PROMISSORY NOTE.

5. THE FOLLOWING OFFICIAL (S) OF THE GOVERNMENT,

IS (ARE) DULY AUTHORIZED TO EXECUTE AND DELIVER SUCH OTHER DOCUMENTS AS MAY BE REQUIRED UNDER THE SAID LOAN AGREEMENT AND, AS MAY BE APPROPRIATE, (A) TO SPECIFY THAT THE FUNDS ADVANCED UNDER THE SAID LOAN AGREEMENT AND PROMISSORY NOTE ARE TO BE TRANSFERRED BY THE FFB TO THE RESPECTIVE ACCOUNTS OF THE UNITED STATES DEPARTMENT

OF ARMY, NAVY, OR AIR FORCE, OR TO THE ACCOUNT OF COMMERCIAL SUPPLIERS WITHIN THE UNITED STATES AS APPROVED IN WRITING BY THE DSAA AND/OR (B) TO ESTABLISH AND DRAW UPON AN ACCOUNT OF THE GOVERNMENT AT A BANK IN THE UNITED STATES TO WHICH ACCOUNT THE FFB SHALL DISBURSE THE PROCEEDS OF ADVANCES HEREUNDER, AND TO CERTIFY TO SUCH BANK ON BEHALF OF THE GOVERNMENT THE IDENTITY, AND NAMES AND TITLES OF ANY OTHER OR ADDITIONAL OFFICIALS OF THE GOVERNMENT WHO THEREAFTER MAY BE SO AUTHORIZED.

6. NO TAX OR DUTY, OF WHATSOEVER NATURE, IMPOSED OR LEVIED BY THE GOVERNMENT OR ANY TAXING AUTHORITY THEREIN OR THEREOF IS PAYABLE ON ACCOUNT OF THE CREATION, ISSUE OF TRANSFER OF SUCH LOAN AGREEMENT OR NOTE OR IS PAYABLE ON ACCOUNT OF, OR IS REQUIRED TO BE WITHHELD FROM THE PAYMENT OF INTEREST OR PRINCIPAL IN RESPECT OF THE LOAN AGREEMENT OR NOTE, PROVIDED THAT THIS PARAGRAPH SHALL NOT APPLY IF THE FFB SHOULD ASSIGN THE LOAN AGREEMENT OR NOTE AND THE ASSIGNEE OR ITS ASSIGNS (EITHER AS HOLDER OF RECORD OR AS BENEFICIAL OWNER) IS EITHER A RESIDENT OR NATIONAL OF THE GOVERNMENT OR A CORPORATION, PARTNERSHIP OR OTHER JURIDICAL ENTITY ORGANIZED UNDER ITS LAWS.

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7. THIS OPINION EXTENDS TO ALL PROVISIONS OF THE LOAN AGREEMENT AND NOTE.

8. ANY ASSIGNEE OF THE LOAN AGREEMENT OR NOTE MAY RELY ON THIS OPINION.

DATE

LEGAL ADVISER
MINISTRY OF
GOVERNMENT OF

KISSINGER

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Message Attributes

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Disposition Authority: greeneet
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Errors: N/A
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Margaret P. Grafeld
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TAGS: MASS, TH
To: BANGKOK
Type: TE
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